INVESTIGATION AND REMEDIATION RECORDS CONCERNING INCIDENTS OF WEAPONS DISCHARGES BY PRIVATE SECURITY CONTRACTORS CAN BE IMPROVED

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SIGIR

Special Inspector General for Iraq Reconstruction

July 28, 2009

INVESTIGATION AND REMEDIATION RECORDS CONCERNING INCIDENTS OF WEAPONS DISCHARGES BY PRIVATE SECURITY CONTRACTORS CAN BE IMPROVED

Summary of Report: SIGIR 09-023

Why SIGIR Did This Audit

This report by the Special Inspector General for Iraq Reconstruction (SIGIR) responds to congressional requirements to conduct audits of serious incidents involving private security contractors (PSCs) in Iraq. It focuses on the Department of Defense's (DoD) oversight of incidents involving the firing—or discharge—of weapons reported from May 2008 through February 2009 by its PSCs. Specifically, the report examines (1) the number and types of serious incidents involving weapons discharges and (2) the extent to which actions taken to investigate and remediate these incidents can be verified.

This report follows up on information on serious incidents provided in *Opportunities To Improve Processes for Reporting, Investigating, and Remediating Serious Incidents Involving Private Security Contractors in Iraq* (SIGIR 09-019, 4/30/09)

DoD delegated its oversight responsibilities to the Multi-National Force-Iraq (MNF-I) which, established Contractor Operations Cells (CONOC) to gather and distribute information on serious incidents involving PSCs and to the Armed Contractor Oversight Division, now called the Armed Contractor Oversight Branch (ACOB), to manage the serious incidents.

What SIGIR Recommends

SIGIR makes no new recommendations to DoD in this report. However, the information presented reinforces the need to implement SIGIR's previous recommendations to the Commanding General, Multi-National Force-Iraq to:

- Require the CONOC and the ACOB to establish a joint database for serious incidents that both can use to capture the information they need to fulfill their responsibilities.
- Require ACOB to track all serious incidents, include data on all incidents in its analyses, perform more extensive analyses of serious incidents, and develop lessons learned from those analyses.

Management Comments

MNF-I concurred with the draft report and provided data on current incidents.

For more information, contact SIGIR Public Affairs at (703) 428-1100 or PublicAffairs@sigir.mil

What SIGIR Found

From May 2008 through February 2009, 109 incidents of weapons discharges were reported by 13 of DoD's private security contractors and recorded in MNF-I's Contractor Operations Cells (CONOC) database. Of these, five incidents resulted in injuries to six PSC employees and two deaths, including one contractor for the U.S. Army Corps of Engineers due to enemy action. No Iraqi civilians were injured or killed in these incidents. Almost twice as many of the incidents involved static guards (71), who are responsible for protecting fixed locations, than security details (38) responsible for protecting personnel and equipment convoys. All but one of the incidents, a suicide of a PSC employee, can be grouped in three primary categories—graduated force responses (which is a continuum of actions that can begin with nonlethal measures and end with lethal measures), negligent discharges, and responses to enemy attacks.

MNF-I's Armed Contractor Oversight Branch's (ACOB) database tracked 95% of the incidents involving weapons discharges from May 2008 through February 2009. This is significantly better than the 43% that SIGIR found in its previous review of all serious incidents (those involving attacks, death, serious injury, or property damage). However, SIGIR found that ACOB did not have the supporting documentation in its database to verify the actions taken on 56 of 109 (51%) incidents that CONOC recorded. The current ACOB officials could not explain why ACOB did not have these records on file, including 16 incidents that appear to have been investigated and remediated. This finding is consistent with our prior audit which showed weaknesses in MNF-I's serious incident record keeping process.

ACOB's lack of documentation for many of the weapons discharge incidents made it difficult, and in some cases impossible, to determine the total number of actions taken to investigate and remediate the incidents, including the actions that may have been taken by MNF-I against the PSCs in this timeframe. ACOB is responsible for ensuring that the commanders of the units that the PSCs support promptly and thoroughly review, and when necessary, investigate and remediate all serious incidents. Our analysis further supports the need for the ACOB and CONOC to establish a joint database for serious incidents that ACOB can use to capture the information it needs to fulfill its responsibilities to manage serious incidents involving PSCs.

SPECIAL INSPECTOR GENERAL FOR IRAQ RECONSTRUCTION

July 28, 2009

MEMORANDUM FOR U.S. SECRETARY OF DEFENSE
U.S. SECRETARY OF STATE
U.S. AMBASSADOR TO IRAQ
COMMANDING GENERAL, CENTRAL COMMAND
COMMANDING GENERAL, MULTI-NATIONAL FORCE-IRAQ
COMMANDING GENERAL, MULTI-NATIONAL CORPS-IRAQ

SUBJECT: Investigation and Remediation Records Concerning Incidents of Weapons Discharges by Private Security Contractors Can Be Improved (SIGIR 09-023)

We are providing this report for your information and use. It discusses our review of Department of Defense oversight of serious incidents in Iraq involving private security contractors (PSCs) who reported discharging weapons from May 2008 through February 2009. This report further examines the issues that SIGIR reported in *Opportunities To Improve Processes for Reporting, Investigating, and Remediating Serious Incidents Involving Private Security Contractors in Iraq* (SIGIR 09-019, 4/30/09).

The audit was performed under the authority of Public Law 108-106, as amended, which also incorporates the duties and responsibilities of inspectors general under the Inspector General Act of 1978. The audit was also conducted in response to the National Defense Authorization Act for 2008 (Public Law 110-181), which requires audits of the processes for reporting, documenting, investigating, and prosecuting (where appropriate) incidents involving PSCs in Iraq.

We considered comments from the Multi-National Force-Iraq when preparing this report. The comments are addressed in the report, where applicable, and a copy is included in the Appendix D of this report.

We appreciate the courtesies extended to the SIGIR staff. For additional information on the report, please contact Joan Hlinka, Deputy Assistant Inspector General for Audits (Washington, DC), (703) 604-0945/ joan.hlinka@sigir.mil, or Nancee Needham, Deputy Assistant Inspector General for Audits (Baghdad), (240)-553-0581, ext. 3793/ nancee.needham@iraq.centcom.mil.

Stuart W. Bowen
Inspector General

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Investigation and Remediation Records Concerning Incidents of Weapons Discharges by Private Security Contractors Can Be Improved

SIGIR 09-023 **July 28, 2009**

Introduction

The Department of Defense (DoD) has relied extensively on companies that provide physical security services, commonly known as private security contractors (PSCs), to perform a number of functions for the Multi-National Force-Iraq (MNF-I) including transporting and protecting personnel by convoy or aircraft and protecting supply convoys and facilities such as military bases or work sites. Over the years, several issues have surfaced concerning the oversight, control, costs, and legal status of DoD's PSCs.[1] Concerns have been raised about the involvement of PSCs in incidents in which their weapons have been fired and Iraqi citizens have been wounded or killed. Such incidents, if unwarranted, can adversely impact the U.S. military mission and U.S.-Iraqi relations.

In April 2009, the Special Inspector General for Iraq Reconstruction (SIGIR) reported[2] on the processes for reporting, investigating, and remediating serious incidents, such as those involving attacks by enemy forces, death, injury, and property damage involving PSCs. The report identified a number of opportunities to improve the accuracy and consistency of information on serious incidents involving DoD and Department of State PSCs and the consistency of policies and procedures pertaining to investigating and remediating serious incidents. This report focuses on incidents during which PSCs discharged their weapons and responds to a mandate in the National Defense Authorization Act for 2008, Public Law 110-181, which requires audits of the processes for reporting, documenting, investigating, and prosecuting (where appropriate) incidents involving PSCs in Iraq.

Background

Since the September 2007 incident involving a Blackwater personnel convoy,[3] DoD has taken action to improve its oversight of PSCs in Iraq. Responsibility for coordinating PSC missions and gathering, assembling, and distributing information on serious incidents involving PSCs falls under the Contractor Operations Cells (CONOC) within MNF-I. The CONOC was established in Baghdad and includes five operations centers located throughout Iraq to:

- provide visibility of PSC movements

[1] For prior reports addressing issues with PSCs under contract with DoD, see Appendix A.
[2] *Opportunities to Improve Processes for Reporting, Investigating, and Remediating Serious Incidents Involving Private Security Contractors in Iraq* (SIGIR 09-019, 4/30/09).
[3] The incident involved the death of 17 Iraqi civilians. Blackwater was then under contract to the Department of State.

- provide a centralized means of requesting military support for PSCs
- manage the collection and distribution of serious incident reports involving PSCs.

The CONOC, which achieved full functional capability in February 2008, maintains a database of incidents reported. Our prior review found that the CONOC database contains the most comprehensive information on serious incidents reported by PSCs.

MNF-I also established the Armed Contractor Oversight Division which became operational in May 2008 to receive serious incident reports from the CONOC and other sources and to ensure that all of them are reported, tracked, and investigated. According to an MNF-I official, although the Division became operational in May 2008, it did not develop the tools and processes to track serious incidents until August 2008. In April 2009, the Division was renamed the Armed Contractor Oversight Branch (ACOB) and the staff was reduced from six to three individuals. Although our review focuses on incidents that occurred during the period the Armed Contractor Oversight Division was in existence, we use ACOB to refer to both organizations.

MNF-I guidance for DoD PSCs' reporting of serious incidents has been provided in various fragmentary orders. The most current Fragmentary Order (09-109) was issued in March 2009, replaces earlier orders,[4] and implements requirements in section 862 of the National Defense Authorization Act for Fiscal Year 2008 for reporting, reviewing, and investigating serious incidents. Although other requirements in the orders have changed, the definitions of a serious incident and the basic incident reporting requirements have remained the same. A serious incident is defined as any incident that includes, but is not limited to, any damage of equipment or injury to persons, attacks, *any weapons discharge*, criminal acts, traffic accidents, and any incident believed to have possible strategic or operational impact. Incidents in which aggressive personal behavior and convoy traffic policies are violated must be reported. Similarly, on July 17 2009, DoD issued an interim final rule in the Federal Register to regulate DoD private security contractors operating in contingency operations. If the current text of the rule is adopted, DoD will require that PSCs document and report incidents involving weapons discharges, attacks, deaths or injuries of PSCs, or destruction of property resulting from actions by PSCs. PSCs must also report any active, nonlethal countermeasures taken in response to a perceived threat if that incident "could significantly affect U.S. objectives with regard to the military mission or international relations."

Under the fragmentary orders, PSCs are required to report to the CONOC all serious incidents that they observe, suspect, or in which they participate. PSCs are to immediately alert the CONOC of a serious incident, submit an initial report within four hours, and conduct an internal investigation of the incident. The PSC is then required to submit a final incident report within 96 hours to the CONOC, the contracting officer, and the contracting officer representative. The

[4] Fragmentary Order 07-428, Overarching Order for Requirements, Procedures, Responsibilities for Control, Coordination, Management, and Oversight of Armed Contractors/DoD Civilians and PSCs (first issued 12/2007). Fragmentary Order 08-575, DoD PSCs and Armed Contractors – Serious Incident Reporting Procedures (11/2008). Fragmentary Order 09-109, Overarching FRAGO for Requirements, Communications, Procedures, Responsibilities for Control, Coordination, Management, and Oversight of Armed Contractors/DoD Civilians and Private Security Companies (3/2009).

incident reports are to include such information as who, what, when, and where of each incident; the contract number; and contact information on the contracting officer representative.[5]

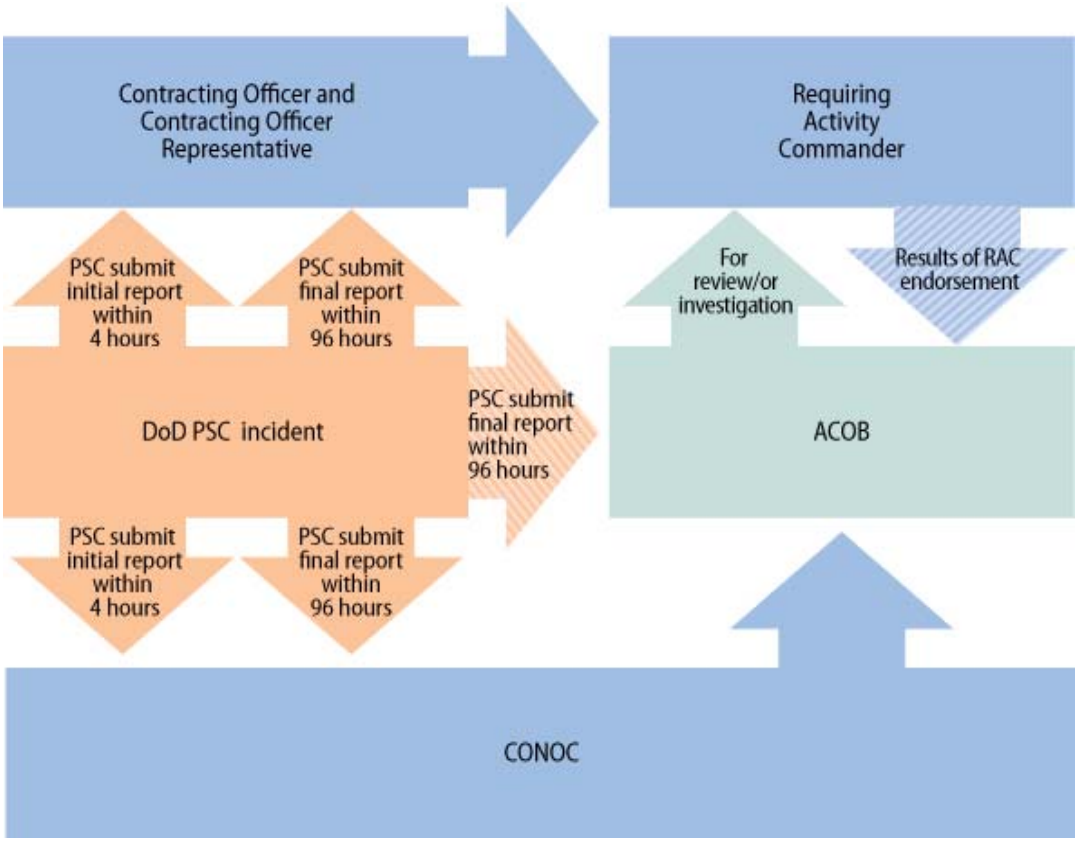
The contracting officer is to immediately provide a copy of the report to the commander of the unit that the PSC supports. The commander, referred to as the "Requiring Activity Commander" (RAC) in the fragmentary orders, is responsible for:

- ensuring that his unit's PSCs report all serious incidents
- reviewing or investigating all serious incidents, and, as appropriate
- instituting corrective or disciplinary actions to remediate the incidents.

ACOB is to receive copies of the final incident reports from the CONOC or the PSCs and forward copies to the RACs, ensuring that the RACs are aware of and fulfilling their responsibilities to (1) promptly and thoroughly review the PSCs' internal investigations, (2) determine whether the PSCs' investigations sufficiently document the relevant facts, and (3) determine whether any disciplinary or corrective actions are appropriate. The RACs are required to report their findings and any corrective or disciplinary actions to ACOB together with the PSCs' reports. If the RAC endorses the PSC's investigation, ACOB generally considers the incident closed. A simplified version of this process is shown in Figure 1.

[5] Incident reports can also be submitted to the CONOC by other sources. Fragmentary Order 09-109, as in previous orders, requires military units in the area that observe incidents involving PSCs to report those incidents through their military channels to the CONOC.

Figure 1−DoD Process for Reporting, Investigating, and Remediating Serious Incidents



Source: SIGIR developed from MNF-I fragmentary order 09-109 (issued on 3/2009).

If the RAC determines that the PSC's investigation is insufficient, the commander must appoint an investigating officer or refer the matter to an investigative authority. The investigation may range from an informal questioning of the PSC to a formal, or Army Regulation 15-6 investigation,[6] which must be performed if the incident involves death, serious injury, or property damage over $10,000. If the PSC's final report, the inquiry by the RAC, or the 15-6 investigation suggests a felony, the RAC must notify and consult with the Multi-National Corps-Iraq Staff Judge Advocate. If disciplinary action is required to remediate the incident, the RAC is to consult with the contracting officer, contracting officer representative, ACOB, and the Multi-National Corps-Iraq Staff Judge Advocate to determine the appropriate action. The results of disciplinary actions are to be reported to ACOB and the Multi-National Corps-Iraq Staff Judge Advocate. Disciplinary action could include (1) revocation of weapons authorization, (2) contract termination, and (3) criminal and civil actions.[7]

[6] Army Regulation 15-6 is used as the basis for many official investigations that require detailed facts to be gathered and analyzed and recommendations to be made based on those facts.
[7] For more information on penalties PSCs could face if involved in a serious incident, see SIGIR 09-019.

Previously Reported Limitations of ACOB's Database

SIGIR's April 2009 report states that the ACOB did not include in its database[8] all serious incidents received from the CONOC even though it is responsible for ensuring that all serious incidents are reported, tracked, and investigated. The report further states that ACOB's database includes only the incidents that ACOB judgmentally decides to track. As a result, ACOB's database had only 264 of 618 (43%) serious incidents recorded in the CONOC database from May 1, 2008, through February 28, 2009. Further, we could not determine what actions, if any, were taken to investigate and remediate most of the incidents that ACOB did not track. Moreover, ACOB's database did not provide a complete record of actions taken by the RAC, ACOB, and other organizations that may have been involved in the incident and investigation review process.

Objectives

SIGIR's objectives for this report were to examine (1) the number and types of serious incidents involving weapons discharges and (2) the extent to which actions taken to investigate and remediate these incidents can be verified.

For a discussion of the audit scope and methodology and a summary of prior coverage, see Appendix A. For a list of acronyms used, see Appendix B. For the audit team members, see Appendix C. For management comments, see Appendix D.

[8] The ACOB "database" is a Microsoft Excel spreadsheet that lists the incidents and records pertinent facts of what happened and where and when the incident occurred. The ACOB files include supporting documentation such as the actual Serious Incident Report, emails, and other documentation to follow up and verify the facts of the incident. For this report, we refer to the ACOB Microsoft Excel spreadsheet and supporting files as ACOB's "database."

Records of Weapons Discharges by PSCs Identified in MNF-I Databases

SIGIR found that ACOB's database tracked 95% of reported incidents involving weapons discharges for the period May 2008 through February 2009. This is significantly better than our previous review which found that the ACOB database tracked only 43% of all serious incidents in the CONOC database for the same period. Specifically, we identified 109 incidents from the CONOC database involving weapons discharges by PSCs and found that ACOB's database tracked 104 of those incidents. All but one of the incidents, a suicide, can be grouped in three primary categories—graduated force responses,[9] negligent discharges, and responses to enemy attacks. Almost twice as many of the incidents involved static guards (who are responsible for protecting fixed locations) than security details (who are responsible for protecting personnel and equipment convoys). 13 PSCs under contract with DoD accounted for all 109 incidents.

Types of Weapons Discharge Incidents

Our review of the CONOC database identified 109 incidents involving weapons discharges for the period May 2008 through February 2009. Of these, five incidents resulted in injuries to six PSC employees and the death of two other people. The deaths involved the suicide of one PSC employee and the fatal injury of a contractor for the U.S. Army Corps of Engineers due to enemy action. No Iraqi civilians were injured in these incidents. The number of enemy combatants injured or killed in these incidents was not included in the incident reports. We found that 104 of these incidents were also recorded in ACOB's database. All but one of these incidents, a suicide, can be grouped into three categories—graduated force responses, negligent discharges, and responses to enemy attacks. Table 1 shows the weapons discharge incidents in both databases by category from May 2008 through February 2009.

[9] A graduated force response is a continuum of actions that can begin and end with nonlethal measures (e.g., giving verbal warnings, showing weapons with intent to use them) or possibly escalate to lethal measures (e.g., using deadly force to remove the threat).

Table 1—Comparison of PSC Weapons Discharge Incidents Recorded in CONOC and ACOB Databases (5/2008-2/2009)

Type of Incident	CONOC Total	ACOB Total	Difference
Graduated Force Response	54	53	1
Negligent Discharge	42	41	1
Response to Enemy Attack	12	9	3
Suicide	1	1	-
Total	**109**	**104**	**5**

Source: SIGIR compiled from the CONOC and ACOB databases.

All but one of these incidents occurred during convoy missions (during which PSCs were protecting personnel or equipment and material) or on military bases and other facilities at static guard positions such as checkpoints, guard towers, or other locations that require manned posts for security checks. Specifically, static security accounted for 71 of the incidents including a suicide by a static guard, and convoy security accounted for 38 of the incidents.

About 50% of the incidents occurred as part of a graduated force response. Such incidents involve an escalation of force that may begin with nonlethal warnings—such as verbal warnings and showing weapons—to possibly deadly force. Of the 54 graduated force response incidents, 23 involved convoy missions and 31 involved static guards.

The following incident illustrates a graduated force response action during a convoy mission. The incident, as with other incidents cited in the report, was drawn from the PSCs' incident reports. On June 14, 2008, two vehicles approached a PSC convoy at a high rate of speed from behind and maneuvered aggressively through traffic toward the PSC convoy. The PSC turret gunner in the rear convoy vehicle used hand and arm signals and a light to warn the approaching vehicles to slow down and stop. The drivers of the vehicles ignored the warning, and the PSC gunner escalated his warning by shouting at the driver, showing his weapon, and demonstrating intent to use the weapon, as required under MNF-I's rules on the use of force outlined in the fragmentary order. The rear gunner perceived the drivers' actions as a direct threat to the convoy. At this point, the rear turret gunner fired one well-aimed shot into the engine block of one of the vehicles. The vehicles continued to approach the convoy and stopped just before the turret gunner fired an additional shot. There were no injuries to the drivers of the vehicles or any bystanders.

About 39% of the incidents involved negligent discharges in which an individual inadvertently discharged his weapon in a nonthreatening situation. For example, in November 2008 at Forward Operating Base Brassfield-Mora (northwest of Samarra), static guards were processing two Iraqi nationals through a checkpoint. The Iraqis had a pistol and an AK-47 with them. One of the guards took it upon himself to clear the pistol rather than letting the owner do it, and the weapon discharged into the ground rather than into a clearing barrel. There were no injuries, but the guard's employment was terminated. A total of 37 similar incidents occurred at checkpoints and other static guard positions and 5 times during convoy missions.

About 11% of the incidents were responses to enemy attacks. Ten incidents involved convoy missions and two involved static guards. The attacks included small-arms fire and improvised explosive devices. For example, in a September 2008 incident, a convoy of 23 trucks was hit with an improvised explosive device and small arms fire, and the PSC personnel returned fire. No casualties or vehicle damage were reported.

Number of Incidents Identified by Each PSC

13 PSCs were responsible for the 109 weapons discharge incidents from May 2008 to February 2009. Table 2 shows the number and type of incidents by contractor.

Table 2—Numbers and Types of Incidents by PSC as Recorded in CONOC Database (5/2008-2/2009)

PSC	GFR[a]	ND[b]	Attacks	Suicide	Total
EOD Technology, Inc.	30	18	1	-	49
Special Operations Consulting-Security Management Group	6	12	-	-	18
Aegis Defence Services, Limited	4	6	3	-	13
Threat Management Group	2	-	4	-	6
Triple Canopy, Inc,	1	1	2	1	5
Falcon Group	3	1	-	-	4
Armor Group	3	-	1	-	4
Sabre International Security	1	2	-	-	3
Olive Group FZ LLC	3	-	-	-	3
Blue Hackle Middle East	-	-	1	-	1
Safenet Security	1	-	-	-	1
Hart Group	-	1	-	-	1
Military Professional Resources, Inc.	-	1	-	-	1
Total	**54**	**42**	**12**	**1**	**109**

[a]GFR–graduated force response
[b]ND–negligent discharge

Source: SIGIR compiled from the CONOC database.

The numbers of incidents do not necessarily indicate poor performance by the PSC. For example, an ACOB official attributed the high number of incidents for EOD Technology and Special Operations Consulting-Security Management Group to a large workforce fulfilling requirements on numerous contracts. Similarly, in a prior report,[10] we identified Aegis Defence Services, Limited, as having a large workforce on a contract with numerous task orders. Another cause of the high number could be the specific regions of Iraq in which the PSC operated in:

[10] See *Oversight of Aegis's Performance on Security Services Contracts in Iraq with the Department of Defense*, SIGIR 09-010, 1/14/2009.

some regions have more violent activity than others. An ACOB official told us that during random ACOB site visits to EOD Technology and Special Operations Consulting-Security Management Group in April and May 2009, nothing was uncovered to indicate a systemic problem that would cause a greater number of weapons discharges.

Documentation Pertaining to the Investigation and Remediation of Incidents Is Incomplete

ACOB is responsible for ensuring that all serious incidents are promptly and thoroughly reviewed by the RAC and, when necessary, investigated and remediated through corrective action. However, our review found that ACOB did not have the supporting documentation in its database to verify the actions taken to investigate and remediate 56 of the 109 (51%) incidents involving weapons discharges recorded in the CONOC database.

ACOB's Records Are Incomplete

To verify the investigation and remediation of incidents, ACOB is required to review and maintain a copy of several documents in its database, including:

- all final serious incident reports
- the RAC's endorsement of the PSCs report, report of investigation, or referral for criminal investigation
- any criminal investigation reports
- any documentation pertaining to corrective actions

ACOB is required to maintain these documents to help develop lessons learned, submit reports to higher headquarters, and to respond to official requests for information, as appropriate.

In our previous review, we found that ACOB tracked less than half of the most serious incidents—those involving death, serious injury, or property damage over $10,000—that required a formal investigation. An ACOB official said that ACOB does not require investigations of incidents caused by the enemy and that do not involve local nationals and/or result in minor injuries. The official further stated that ACOB provides no oversight of incidents caused by enemy actions unless the PSCs did not follow reporting requirements.

Similarly, ACOB commented that it reviews all incident reports of weapons discharges, but some incidents do not require an additional investigation. If it is apparent from the incident report that the facts surrounding the incident are fully developed, the matter is closed without further investigation because the additional investigation will have little utility, according to an ACOB official.

However, whenever a PSC discharges a weapon, at a minimum, the RAC should review and endorse the PSC's investigation and remediation of the incident. According to the fragmentary order, the RAC is required to forward an endorsement letter to the ACOB. Because ACOB is required to keep all RAC endorsement letters on file, every incident recorded in ACOB's database should have some documentation verifying that it was investigated and remediated as appropriate.

Incidents Recorded as Investigated and Remediated in ACOB's Database

According to ACOB's database, 53 of 104 (51%) weapons discharge incidents were investigated and remediated. ACOB did not maintain required supporting documentation for the other 51 incidents. However, from incident reports, it appears that actions were taken to investigate and remediate 16 of the 51 incidents. ACOB could not explain why it did not have the records for the 16 incidents. Table 3 shows the number of incidents for which ACOB had supporting documentation and those for which it had no supporting documents.

Table 3—Incidents With and Without Required Documentation To Verify Investigations and Remediation Actions (5/2008-2/2009)

Type of Incident	Support Total	No Support Total	Incident Total
Graduated Force Response	24	29	53
Negligent Discharge	22	19	41
Response to Enemy Attack	7	2	9
Suicide	-	1	1
Total	**53**	**51**	**104**

Source: SIGIR compiled from the ACOB database.

Investigation and Remediation of Graduated Force Response Incidents

As table 3 shows, ACOB had documents describing investigation and remediation actions for only 24 (45%) of the graduated force response incidents in its database, including:

- 2 incidents where Army Regulation 15-6 investigations were ordered
- 22 incidents in which the RAC reviewed and endorsed the PSC's investigation

Of the remaining 29 incidents, the PSCs' incident reports and ACOB's database provided information on 22 incidents. There were no records on the remaining seven incidents.

As a result of both of the Army Regulation 15-6 investigations, the PSC had to take corrective actions. For example, in an incident on May 1, 2008, a PSC convoy and an Iraqi security team convoy exchanged gunfire as the Iraqi team approached the PSC convoy on the road. The Iraqi personnel sustained injuries and its vehicles were damaged. The Army Regulation 15-6 investigating officer found that the PSC employee, who was the rear gunner in the convoy, failed to identify the convoy as friendly and did not follow proper techniques for gradually escalating the use of force. As a result, the gunner's arming authorization was revoked, and the PSC had to implement new standard operating procedures and provide training on communications with other vehicles on the road.

When the RAC endorses a PSC investigation, it could be a straightforward review of the incident report, or other issues could arise. For example, in a graduated force response incident on May

13, 2008, a PSC employee fired two shots into the engine block of a vehicle that approached his convoy. The PSC investigation found that the employee had followed proper procedures, including using a flag, an eye-safe laser, and a mini-flare to ward off the vehicle before he requested permission to fire at the vehicle's engine block. The RAC found that the PSC's incident report fully captured the facts of the situation, that the weapons discharge was authorized under MNF-I fragmentary orders, and that the report included lessons learned to avoid a repeat of the situation. As a result, the PSC's internal investigation and remediation of the incident was endorsed and the matter was closed.

However, in another incident on August 18, 2008, a PSC was penalized for not having filed an incident report within four hours. In this incident, in which a car swerved in a threatening manner at a PSC vehicle in a convoy, one of the PSC gunners fired a warning shot 10 meters in front of the car. This was the second time that month that the PSC had failed to submit an incident report within the four-hour timeframe. The Defense Contract Management Agency issued a corrective action report to the PSC, and MNF-I revoked the PSC's arming authorizations for one day and required the company to provide one-day training on the prompt filing of incident reports. As a result, the PSC revised its standard operating procedures to ensure filing of reports within the four-hour time frame. When the PSC finally filed its report, the RAC endorsed the PSC's internal investigation and remediation of the incident, and the matter was closed.

ACOB did not keep documentation verifying the investigation and remediation of the other 29 graduated force response incidents for which there are entries in its database. In reviewing the incident reports maintained in the CONOC's database, we determined that in one case PSC employees involved in a shooting incident involving no injury or property damage were retrained, and the RAC endorsed this action. For 20 other incidents, the U.S. military ordered the PSCs to fire their weapons, according to each incident report. However, no supporting records were available verifying that the RAC commander reviewed and endorsed the actions. We noted in a separate graduated force response incident that there was documentation of a letter from ACOB to a PSC regarding its failure to follow proper procedures and provide an incident report in a timely manner. However, there was no documentation of what occurred after the letter was sent. Seven incidents had no documentation verifying whether the graduated force responses were investigated or remediated.

When we asked ACOB officials about these 29 incidents, they indicated that for some incidents the occurrence of the investigation and remediation was simply noted in the database rather than maintaining documentation of the actions taken. However, an ACOB official also stated that none of ACOB's current staff was in Iraq when the incidents took place, and therefore they could not fully identify the reasons for the absence of documentation on these incidents from their database. In each case, ACOB should have on file, at a minimum, a letter from the RAC endorsing the PSCs investigation.

Investigation and Remediation of Negligent Discharge Incidents

Although ACOB's database included 41 negligent discharge incidents, ACOB had documentation of actions taken for only 22 (54%) of the incidents. For 11 of the 22 incidents, ACOB revoked the arming authorization of PSC employees involved in the incidents. For the

other 11, the RAC reviewed and endorsed the PSC's investigation of the incident. The ACOB database contained no supporting documentation for the remaining 19 incidents.

With supporting documentation in the database, we could verify the 11 incidents for which ACOB revoked the arming authorization of PSC employees. Eight of the 11 incidents for which the ACOB revoked the employees' arming authorizations also resulted in the termination of employment of the individuals involved in the incident. MNF-I fragmentary orders state that an individual may be removed from armed security details pending completion of an investigation or review, and generally the individual is terminated for violating his contract. These incidents generally occur when an individual mishandles a weapon during a guard shift, fails to follow weapons clearing procedures, or receives a weapon that had not been cleared. In one negligent discharge incident involving employees of a PSC in October 2008, a guard accidentally discharged his weapon while receiving it on a shift change. The guard, who was originally on the shift, loaded a round into the weapon and took the safety off. The second guard received the weapon from the first during the shift change, but did not first make sure that the weapon was clear and the safety was on. Both guards were subsequently terminated.

ACOB's database contained supporting documentation verifying that the RAC had reviewed and endorsed the 11 negligent discharges. These incidents were fairly straightforward, and ACOB determined that no further investigation was needed with one exception—an incident in July 2008 that resulted in the termination of a PSC guard's employment.[11] While on guard duty at a cafeteria located on Victory Base in Baghdad, the employee attempted to show newer guards what he would do if someone tried to attack him. The employee took the safety off his weapon, aimed it at the cafeteria, and discharged it. The bullet penetrated the wall, entered the building, ricocheted off the ground and hit the shoulder of a third-country national worker, who suffered minor injuries. In addition to firing the individual, the PSC conducted refresher training for all of its personnel.

The actions taken on the other 19 incidents of negligent discharge could not be verified because ACOB's database lacked supporting documentation. However, as with the graduated force response incidents, some action was taken on nine incidents, according to the incident reports. For two incidents, the incident reports indicate that the RAC reviewed and endorsed the PSCs investigation. For six other incidents, the incident reports indicate that ACOB revoked the arming authority of the employees of several PSCs but there were no copies of the revocation letters in ACOB's database. In another incident, the incident report indicates that the PSC terminated the employee.

In the 10 other incidents, we found no evidence in the ACOB database or files that ACOB took any action even though fragmentary orders require ACOB to maintain records of a requiring activity for all negligent discharge incidents. We were able to confirm from the available supporting documents provided by ACOB or CONOC that the PSC involved in these incidents either terminated the contracts of the employees involved and/or required additional training for employees not fired due to the incident. However, as with the 29 graduated force response incidents, the ACOB database did not have supporting documentation and the current ACOB

[11] ACOB officials confirmed that another negligent discharge incident involving the PSC did, in fact, result from a weapon having a defective safety and trigger mechanism, rather than contractor's negligence.

officials could not identify the reasons for the absence of supporting documentation on these 19 incidents from their database.

Investigation and Remediation of Responses to Attacks

ACOB's database included nine incidents relating to attacks; however, ACOB had documented actions for only seven (78%) of the nine in its database. One of the incidents resulted in an Amy Regulation 15-6 investigation. This incident occurred in October 2008 and involved the exchange of gunfire between employees of a PSC, who were traveling in a convoy, and soldiers in the Iraqi Army at a checkpoint on a highway in Iraq. The subsequent investigation showed that the PSC employees did not have mandatory communications equipment, did not adhere to procedures for escalating the use of force and rules of the road, and lacked respect for Iraqi law and overall professionalism. As a result, the PSC employees involved in this incident were barred from all operating bases in Iraq, which effectively terminated their ability to work as an armed contractor in Iraq. As with the other incidents cited, ACOB could not identify the reasons for the absence of any supporting documentation from its database for the other two incidents.

Investigation and Remediation of Suicide Incidents

The CONOC and ACOB database recorded one incident of a weapons discharge resulting in a suicide. ACOB sent a letter to the RAC on January 28, 2009, informing him that the PSC had filed an incident report on the suicide of one of its employees by gunshot. The letter stated that it was sent only to inform the commander of the occurrence of the incident, and no reply to the letter or action was necessary. The serious incident report stated that the Army's Criminal Investigation Division was conducting an active investigation, with results pending. However, ACOB's files did not include the results of the investigation.

ACOB Has No Record of Five Incidents

As discussed above, ACOB did not capture five weapons discharge incidents in its database for the period of May 2008 through February 2009. ACOB officials could not confirm why these incidents were not included, but explained that they occurred in May and June 2008 while ACOB was getting its oversight mission underway. These incidents include three attacks on PSCs, one graduated force response, and one negligent discharge. Under MNF-I's fragmentary orders, the RAC should have, at a minimum, reviewed the PSC's incident report and/or investigated all five of these incidents and provided the results of the investigations to ACOB.

One of the attack incidents should have resulted in an Army Regulation 15-6 investigation because of the loss of life. According to MNF-I fragmentary orders, all incidents involving death, serious injury, and property damage in excess of $10,000 should be investigated. The incident occurred in May 2008 and involved a PSC convoy protecting personnel near Forward Operating Base Speicher, which is close to the city of Baiji. The convoy was simultaneously struck from several locations by an improvised explosive device and small arms fire from approximately six to eight suspected Al Qaida combatants. The PSC team suppressed the enemy forces, and casualties were extracted to the closest hospital where one employee of the U.S. Army Corps of Engineers was declared dead and three others were treated for shock and/or concussions. During our previous audit, we were told that ACOB did not require an Army Regulation 15-6 investigation for loss of life if the incident is caused by the enemy and does not

involve a local national. We were also told that ACOB provides no oversight of incidents caused by enemy action unless the PSC did not follow requirements. Because of the lack of documentation, we could not determine if the incident was not investigated for the reasons cited by ACOB officials or there simply is no record of an investigation.

As with any weapons discharge, reviews or investigations of all graduated force response incidents are required. The graduated force response incident also occurred in June 2008 and involved a PSC convoy. The convoy was aggressively approached by a vehicle driven by an Iraqi. After all nonlethal warning procedures were implemented by the PSC personnel, they fired a warning shot into the lower corner of the vehicle's windshield on the passenger's side with a nonlethal shotgun beanbag round. The driver of the vehicle immediately stopped his car. Although the facts of the case indicate that the PSC followed procedures, ACOB's records should indicate whether the RAC reviewed and/or investigated this incident and the results of that review or investigation.

Similarly, reviews or investigations of all negligent discharge incidents are required. The negligent discharge for which ACOB has no record involved an employee who discharged his weapon while he was cleaning the rifle with the safety off. According to the PSC report, the employee was fired. ACOB's records should state whether the RAC reviewed or investigated this incident and the results of that review or investigation.

Conclusions and Recommendations

Conclusions

Although ACOB's database tracked considerably more of the incidents involving weapons discharges than we previously found for all serious incidents, its lack of records concerning the RACs' reviews, investigations undertaken, and actions taken to remediate the incidents was consistent with our previous findings which showed weaknesses in MNF-I's serious incident record keeping process. ACOB's lack of documentation for many of the weapons discharge incidents made it difficult, and in some cases impossible, to determine what actions were taken to investigate and remediate the incidents. The same was the case for actions that may have been taken by MNF-I against the PSCs in this timeframe. Our analysis further supports the need for ACOB and CONOC to establish a joint database for serious incidents that ACOB can use to capture the information it needs to fulfill its responsibilities to manage serious incidents involving PSCs.

Recommendations

SIGIR makes no recommendations to MNF-I in this report. However, the analysis presented above reinforces the need to implement recommendations four and five that SIGIR previously made to the Commanding General, MNF-I, in *Opportunities To Improve Processes for Reporting, Investigating, and Remediating Serious Incidents Involving Private Security Contractors in Iraq* (SIGIR 09-019, 4/30/09):

4. Require CONOC and ACOB to establish a joint database for serious incidents that both can use to capture the information they need to fulfill their responsibilities.
5. Require ACOB to track all serious incidents, include data on all incidents in its analyses, perform more extensive analyses of serious incidents, and develop lessons learned from those analyses.

Management Comments and Audit Response

SIGIR received management comments from MNF-I, in which MNF-I concurred with the information provided in our draft report. MNF-I also provided additional statements and information for SIGIR to consider in preparing the final report. MNF-I stated that ACOB now maintains all serious incident reports in its database and noted that it had recorded 44 incidents in its database from February 2009 through June 2009. According to ACOB, this includes:

- 25 negligent discharges, with each incident resulting in a revocation of arming authority issued by ACOB
- 17 graduated force response incidents, of which 14 were deemed appropriate upon review of the incident report and three incidents were referred to the RAC for possible investigation

- Two other incidents not categorized, though one was referred to as a "training accident" and the other was to kill a poisonous snake

While we appreciate ACOB providing this information, the scope of our review covered the period from May 2008 through February 2009. Therefore, we present this additional data for informational purposes, but have not confirmed that ACOB now maintains all serious incidents in its database or whether ACOB captured the documentation relating to investigating and remediating these incidents.

Appendix A—Scope and Methodology

Scope and Methodology

In June 2009, the Special Inspector General for Iraq Reconstruction (SIGIR) initiated Project 9021 to examine the Department of Defense's (DoD) oversight of serious incidents involving the discharge of weapons by PSCs in Iraq. SIGIR's objectives for this report were to examine (1) the number and types of serious incidents involving weapons discharges and (2) the extent to which actions taken to investigate and remediate these incidents can be verified. This audit was performed by SIGIR under the authority of Public Law 108-106, as amended, which also incorporates the duties and responsibilities of inspectors general under the Inspector General Act of 1978. The audit was also conducted in response to the National Defense Authorization Act for 2008 (Public Law 110-181), which requires audits of the processes for reporting, documenting, investigating, and prosecuting (where appropriate) incidents involving private security contractors in Iraq. SIGIR conducted its work during June and July 2009 in Arlington, Virginia.

This report builds on prior audit work performed by SIGIR and reported in *Opportunities To Improve Processes for Reporting, Investigating, and Remediating Serious Incidents Involving Private Security Contractors in Iraq* (SIGIR 09-019, 4/30/09). The previously published report included data and information on serious incidents recorded in Multi-National Force-Iraq (MNF-I) databases from May 2008 through February 2009 and requirements for reporting this data contained in the fragmentary orders issued by MNF-I.

To examine the number and types of incidents involving PSCs' discharge of weapons, we analyzed and compared data maintained in Microsoft Excel spreadsheet databases and supporting documentation by MNF-I's Armed Contractor Oversight Branch (ACOB) and its Contractor Operations Cells (CONOC). We reviewed data from May 1, 2008, through February 28, 2009, because ACOB was not fully operational before May 2008. As previously reported, the CONOC database is believed to be the more comprehensive database of the two and was therefore used as the baseline for our analysis of the recorded incidents. We also discussed with an ACOB official the reasons why fewer incidents are recorded in ACOB's database than in CONOC's database. Because CONOC and ACOB do not have a consistent methodology for categorizing the types of incidents that occurred, we categorized ACOB's incidents to match CONOC incidents. We also reorganized the incidents in the ACOB database to match CONOC's incident serial numbers. Although we relied on the information contained in these databases, we verified it with the actual incident reports and other documentation maintained by CONOC and ACOB.

To examine the DoD incident investigation and remediation processes, we reviewed the appropriate fragmentary orders pertaining to incident investigations. These orders implement requirements for reporting, reviewing, and investigating serious incidents mandated by section 862 of the National Defense Authorization Act for Fiscal Year 2008, which we also reviewed. We compared ACOB's investigation criteria with fragmentary order requirements to see if ACOB had followed the fragmentary orders. We reviewed ACOB's database and supporting documentation to verify actions taken to review the incidents. However, we were unable to

verify ACOB's actions with supporting documentation for 51 of the 104 incidents in ACOB's database, and five other incidents recorded in the CONOC database. We discussed this issue with ACOB officials, who informed us that they had reviewed all incidents and were satisfied with the PSCs' internal investigations and considered the matter closed, but they could not locate any supporting documentation to substantiate their statement.

The audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Use of Computer-processed Data

We obtained serious incident data from databases maintained by ACOB and CONOC. When we found inconsistencies in the two databases, we corrected those inconsistencies to the extent possible by using the actual incident reports or through discussions with knowledgeable individuals. ACOB did not have all records to substantiate the type of actions taken that were posted in their database. This report discloses the weakness and limitations in those data. We also made recommendations for improving the databases in our prior audit report, and the analysis presented in this report emphasizes the need for MNF-I to implement our previous recommendations.

Internal Controls

We reviewed the specific controls used in managing the serious incidents that are required to be reported through DoD channels. This included reviewing management controls related to the reporting, investigating, and remediating of incidents. The report focuses on weaknesses in those controls.

Prior Coverage

We reviewed the following reports issued by SIGIR, the Government Accountability Office, the Congressional Research Service, and the Congressional Budget Office.

Special Inspector General for Iraq Reconstruction

Opportunities to Improve Processes for Reporting, Investigating, and Remediating Serious Incidents Involving Private Security Contractors in Iraq, SIGIR 09-019, 4/30/09.

Oversight of Aegis's Performance on Security Services Contracts in Iraq with the Department of Defense, SIGIR 09-010, 1/14/2009.

Agencies Need Improved Financial Data Reporting for Private Security Contractors, SIGIR 09-005, 10/30/2008.

U.S. Government Accountability Office

Rebuilding Iraq: DOD and State Department Have Improved Oversight and Coordination of Private Security Contractors in Iraq, but Further Actions Are Needed to Sustain Improvements, GAO-08-966, 7/31/2008.

Rebuilding Iraq: Actions Still Needed to Improve the Use of Private Security Providers, GAO-06-865T, 6/13/2006.

Rebuilding Iraq: Actions Needed to Improve Use of Private Security Providers, GAO-05-737, 7/28/2005.

Congressional Research Service

Private Security Contractors in Iraq: Background, Legal Status, and Other Issues, 8/25/2008.

Private Security Contractors in Iraq: Background, Legal Status, and Other Issues, 6/21/2007.

Congressional Budget Office

Contractors' Support of U.S. Operations in Iraq, 8/2008.

Appendix B—Acronyms

Acronym	Definition
ACOB	Armed Contractor Oversight Branch
CONOC	Contractor Operations Cells
DoD	Department of Defense
MNF-I	Multi-National Force-Iraq
PSC	Private Security Contractor
RAC	Requiring Activity Commander
SIGIR	Special Inspector General for Iraq Reconstruction

Appendix C—Audit Team Members

This report was prepared and the review was conducted under the direction of David R. Warren, Assistant Inspector General for Audit, Office of the Special Inspector General for Iraq Reconstruction.

The staff members who conducted the audit and contributed to the report include:

Michael A. Bianco

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Appendix D—Management Comments

SIGIR DRAFT REPORT – DATED JULY 07, 2009
SIGIR 09-023

"INVESTIGATION AND REMEDIATION RECORDS CONCERNING INCIDENTS OF WEAPONS DISCHARGES BY PRIVATE SECURITY CONTRACTORS CAN BE IMPROVED"

MNF-I COMMENTS
TO THE DRAFT REPORT

RECOMMENDATION

SIGIR makes no recommendations to MNF-I in this report, but states the analysis presented reinforces the need to implement recommendations four and five SIGIR previously made to the CG in *Opportunities to Improve Processes for Reporting, Investigating, and Remediating Serious Incidents Involving Private Security Contractors in Iraq* (SIGIR 09-019, 30 Apr 09.) The referenced recommendations are set forth below:

4. **Require CONOC and ACOD to establish a joint database for serious incidents that both can use to capture the information they need to fulfill their responsibilities.**
5. **Require ACOD to track all serious incidents, include data on all incidents in its analyses, performs more extensive analyses of serious incidents, and develops lessons learned from those analyses.**

MNF-I RESPONSE: MNF-I concurs with the information provided in the Draft Report, and submits the following comments and additional documentation.

General Comments on the Report/Additional Documentation

1. (U) SIGIR reviewed the CONOC database and found 109 incidents involving weapons discharges for the period of May 08 through Feb 09. These weapons discharges included Graduated Force Response (GFRs), negligent discharges, response to enemy attack and suicide. SIGIR found that ACOB's database tracked 95% of incidents involving weapons discharges for this period (p.6), with supporting documentation showing investigation and remediation found for 51% of those incidents in the ACOB database (p.11.)

2. (U) The CONOC forwards to ACOB all Serious Incident Reports (SIRs) it receives initiated by Private Security Contractors (PSCs.) ACOB maintains all SIRs in its database. Depending upon the thoroughness of the SIR, additional investigation by the requiring activity commander (RAC) may or may not be warranted.

3. (U) In certain types of weapons discharge instances, a *pro forma* response by ACOB is forthcoming. For example, negligent discharges will result in a six-month suspension of the contractor employee's arming authorization.

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4. In the SIGIR Exit Conference, conducted 7 Jul 09, SIGIR stated a submission of post-SIGIR review statistics and analysis would be welcome to show improvement over the previously-reviewed period (May 08-Feb 09.) Please note the following corresponding statistics/analysis:

Since Feb 09, there have been 44 incidents involving weapons discharge, consisting of:

- 25 negligent discharges, with each incident resulting in a revocation of arming authority issued by ACOB.
- 17 GFRs. Three letters were sent to the RAC recommending a commander's inquiry. ACOB was able to determine the remaining GFRs were appropriate based upon the SIR.
- 2 incidents of shots fire: one was a training accident, and one was to kill a poisonous snake.

Attachments:
1. Graph, Weapons discharges broken down by month/type (Feb-Jun 09.)
2. Database, Weapons discharges (Feb-Jun 09.)

APPROVED BY:
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